

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. No. 2:23-cr-00070 MIS

SHANE WATKINS,

Defendant.

ORDER REGARDING ALLEGED EX PARTE COMMUNICATIONS

THIS MATTER is before the Court upon notice of allegations of an ex parte communication between the Court and the United States. In particular, it has been brought to the Court's attention that Defendant's counsel did not receive a carbon copy of a recent email exchange regarding audio and video evidence relevant to voice identification of the Defendant. ECF No. 54 at 3. This omission was inadvertent and the Court extends its apologies to counsel.

Counsel referenced the vocal identification evidence in Defendant's Motion to Revoke Detention Order Pursuant to 19 USC § 3145 Entered by the Magistrate Judge, ECF No. 16 at 9, and in her original Response to the United States' Brief in Support of Detention, ECF No. 11 at 6. The Court was therefore under the impression that the evidence had been proffered before the Magistrate Judge. Additionally, the Court discussed the voice identification evidence with Defendant's counsel at the February 15, 2023 Appeal of Detention Hearing, in the context of the weight of the evidence. ECF No. 37 at 12–13. She did not object to the Court's consideration of the evidence at that time. *Id.*

Counsel is encouraged to bring similar issues to the Court's immediate attention, including during the relevant motion hearing.¹ Given the circumstances, however, the Court will allow Defendant to file supplemental briefing.

IT IS THEREFORE ORDERED that Defendant may file any responsive filing regarding the audio and video files by Monday, April 17, 2023.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Margaret Strickland". The signature is written in a cursive, flowing style.

MARGARET STRICKLAND
UNITED STATES DISTRICT JUDGE

¹ As to the January 23, 2023 jail incident report, the Court's staff generally receives such reports automatically, but the Court did not rely on it in any way.

Additionally, as to the February 21, 2023 email from the U.S. Marshals, this was received after the Court issued its Order Denying Defendant's Motion to Revoke Detention on February 17, 2023. See ECF No. 36. The Court therefore did not rely on this email in any way. The email was in response to the Court's asking the U.S. Marshals as to unmet mental health needs alleged by Defendant's counsel in open court. See ECF No. 37 at 10.